

### **REMARKS**

This Application has been carefully reviewed in light of the Final Office Action mailed April 19, 2005. At the time of the Final Office Action, Claims 1-23 were pending in this Application. Claims 1-23 were rejected. Claims 1, 4, 10, and 13 have been amended to further define various features of Applicant's invention. Claims 3, 9, 12, 16 and 23 have been cancelled without prejudice. Thus, Claims 1, 2, 4-8, 10, 11, 13-15, and 17-22 are currently pending. Applicant respectfully requests reconsideration and favorable action in this case.

#### **Rejections under 35 U.S.C. § 112**

Claim 23 was rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant cancelled Claim 23.

#### **Claim Rejections under 35 U.S.C. § 103**

Claims 1-6, 9-15, and 19 stand rejected under 35 U.S.C. § 103(a) as being obvious over Srivastava (6,549,922) in view of APA (Admitted Prior Art). Applicant respectfully disagrees with this rejection.

Claims 7, 8, 16, 17, and 20 were rejected under 35 U.S.C. § 103(a) as being obvious over Srivastava (6,549,922) in view of APA (Admitted Prior Art), as applied to Claim 1 above, and further in view of Oklin et al. (5,878,220). Applicant amended the independent claims and, thus, respectfully disagrees with this rejection.

Claim 23 was rejected under 35 U.S.C. § 103(a) as being obvious over Srivastava (6,549,922) in view of Bruynooghe et al. (5,454,109). Applicant respectfully disagrees with this rejection.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three

basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

The present application is directed to an automation system comprising an engineering system and a runtime system. The engineering system is used to define, for example, a specific device controlled by a control program within the runtime system. Usually, automation systems do not allow for universal control of runtime systems. In particular, remote control and/or offline control are not easily implemented because the engineering system provides the runtime system with proprietary code. However, according to the present invention, a different concept is used to transfer data between the engineering system and the runtime system which allows, for example, for offline review of the control structure of a runtime system as well as for a remote control by any type of Internet Client. To this end, the engineering system converts the specific control data designed for a runtime system into a format that can be read by an Internet Client. The runtime system, provides for a back-conversion or translation of the respective data to directly control a control processor of the runtime system. In addition, the runtime system can exchange the original data (converted by the engineering system) with any type of Internet Client, thus, allowing external control, for example, via HTML or XHTML formatted data.

Srivastava does merely disclose for automatic extraction and transformation of metadata into logical annotations. Thus, there will be no motivation for a person skilled in the art, to apply such a system to known automation systems because an engineering system does not create any metadata which are usually known as non-

visible data in a media file. Therefore, Applicants believe that a person skilled in the art would never consider Srivastava.

The dependent claims include all the limitations of the independent claims and are, thus, patentable at least to the extent of the independent claims.

**Change of Correspondence Address**

Applicant respectfully requests that all papers pertaining to the above-captioned patent application be directed to Customer No. **31625** and all telephone calls should be directed to Andreas Grubert at 512.322.2545.


**SUMMARY**

In light of the above remarks and amendments, reconsideration and withdrawal of the outstanding rejection is respectfully requested. It is further submitted that the application is now in condition for allowance and early notice of the same is earnestly solicited. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the agent of record by telephone or facsimile.

Applicant encloses a check in the amount of \$790.00 for the Request for Continued Examination fee. Applicant does not believe that any other fees are due at this time; however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to this document, the Commissioner is authorized to deduct the fees from Deposit Account No. 50-2158, (*formerly Baker & Botts, L.L.P.*) Order Number 071308.0256

BAKER BOTTS, L.L.P.

Date: 5/24/05

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